



KANSAS

D. KENT HURN, CHAIRPERSON

DEPARTMENT OF ADMINISTRATION
CIVIL SERVICE BOARD

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TO: Jack Rickerson, Director, Division of Personnel Services
Mark S. Braun, Director, Office of Administrative Hearings
D. Kent Hurn, Chairman, Civil Service Board

FROM: Peggy Graham, Secretary, Civil Service Board

DATE: January 14, 2005

SUBJECT: Quarterly Update

The following reflects the Civil Service Board cases in which action was taken since the October 15, 2004 quarterly report:

A. Cases Decided and/or Disposed Of:

1. Name Removed, dismissal *affirmed*
Kansas Neurological Institute
Developmental Disability Technician I. Appellant has been convicted of assault and child endangerment stemming from an altercation with her developmentally disabled brother in which she was the aggressor. She was on probation for that conviction at the time she applied for a position with KNI. On her application, when asked whether she had ever been convicted of a prohibited crime, the appellant checked the "no" box. A KBI check was never completed and the appellant was hired at KNI. A subsequent check of her criminal history revealed the conviction and she was dismissed for providing false information on her application for employment. After hearing all of the evidence the Board affirmed the decision of the appointing authority.
2. Name Removed, dismissal *modified*
Atchison Juvenile Correctional Facility
Juvenile Correctional Officer I. Another officer brought candy into the facility for the JO's and distributed the candy to the JO's in her unit in violation of facility policy. In addition, although the appellant answered all of the questions asked of her during an investigation into abuse of a JO, she was not as open and forthcoming with information as she should have been. After hearing all of the evidence, the Board found that the appellant had violated some facility policies but did not find that her transgressions rose to the level of dismissal and

found dismissal to be unreasonable under the circumstances. The action was modified to a 10-day suspension without pay.

3. **Name Removed**, dismissal *withdrawn*
Citizens' Utility Ratepayer Board
Administrative Specialist. The appellant was dismissed as a result of a medical condition that prevented her from performing her job duties. She withdrew her request for appeal prior to the scheduled hearing date.
4. **Name Removed**, 3-day suspension *modified*
Atchison Juvenile Correctional Facility
Juvenile Correctional Officer I. The appellant was assigned to the Redwood Cottage and had received permission to take the JO's to the recreation area one afternoon. While at the recreation area, three of the JO's began to taunt and tease one another. The situation was handled by the appellant and another JCO by counseling one of the JO's, but no official entry into the unit log about the event was made. After hearing all of the evidence the Board determined that the appellant should have counseled all three of the JO's and that an entry into the unit log should have been made, but also found that a suspension was not reasonable, and instead modified the decision to a letter of reprimand.
5. **Name Removed**, dismissal *affirmed*
Department of Social and Rehabilitation Services
Human Services Assistant. The appellant received three unsatisfactory performance evaluations within 180 days. She was properly counseled regarding her performance and in ways to improve it so as to be performing at a satisfactory level. She failed to substantially improve her performance and remained at an unsatisfactory level of performance. After hearing all of the evidence, the Board affirmed the decision of the appointing authority.
6. **Name Removed**, 10-day suspension *withdrawn*
Hutchinson Correctional Facility
Correctional Specialist II. The appellant allegedly engaged in sexual harassment in the work place. The parties settled the matter and the appellant withdrew his request for a hearing prior to the scheduled hearing date.
7. **Name Removed**, dismissal *withdrawn*
University of Kansas
Accounting Specialist. The appellant received six months of shared leave due to a knee injury. At the end of that time she needed additional surgery and was unable to provide any information as to when she would be able to return to work or resume performance of her job duties. She withdrew her appeal prior to the scheduled hearing date.
8. **Name Removed**, dismissal *withdrawn*
Department of Health and Environment
Senior Administrative Assistant. The appellant had been unable to work since November 3, 2003 and was not able to provide KDHE with a statement from her doctor either releasing her to return to work or estimating when she would be able to return to work. As a result the appellant was found to be unable to perform the essential functions of her job duties. The parties reached a settlement and the appellant withdrew her appeal prior to the beginning of the hearing.

9. **Name Removed**, dismissal *affirmed*
Kansas State University
Custodial Supervisor. The appellant engaged in sexual harassment in the workplace and in doing so created a hostile work environment for his staff over the course of several years. After hearing all of the evidence the Board affirmed the decision of the appointing authority.
10. **Name Removed**, dismissal *affirmed*
University of Kansas
Cook I. The appellant injured his back and his doctor provided several statements to KU over the course of a year restricting his lifting ability to 20-25 pounds. This lifting restriction was accommodated by KU. In the Spring of 2004, the appellant's physician changed his lifting restriction to a maximum of 10 pounds. This lifting restriction could not be reasonably accommodated and the appellant was dismissed for inability to perform his job duties. After hearing all of the evidence the Board affirmed the decision of the appointing authority.
11. **Name Removed**, 7-day suspension *affirmed*
Kansas Highway Patrol
Trooper. The appellant was responding to a pursuit of an impaired driver. Two other troopers had deployed stop sticks on the highway and were successful in stopping the fleeing vehicle. However, traffic was stopped on the highway so the officers could then remove the stop sticks. As the appellant came upon the area where traffic had stopped, he failed to recognize that traffic was stopped and failed to adequately reduce his speed. As a result, he collided with two vehicles and pushed one of the vehicles into a third vehicle. His patrol cruiser and at least one of the vehicles he hit were totaled. After hearing all of the evidence, the Board affirmed the decision of the appointing authority.
12. **Name Removed**, 3-day suspension *withdrawn*
Emporia State University
Power Plant Operator. The appellant left the power plant unattended without permission on several occasions and on his 2002 performance evaluation it was noted that he was not to leave the power plant unattended in the future. On at least four occasions between July 12, 2004 and August 2, 2004 the appellant again left the power plant unattended without permission and in violation of agency policy. The appellant withdrew his appeal prior to the scheduled hearing.
13. **Name Removed**, dismissal *dismissed*
Department of Revenue
Customer Representative Specialist. The appellant deposited money he collected on behalf of KDOR into his personal checking account. He had also had numerous previous disciplinary actions taken against him. The appellant failed to appear for his scheduled hearing and a default order was issued against him.
14. **Name Removed**, 2-day suspension *reversed*
Atchison Juvenile Correctional Facility
Juvenile Correctional Officer I. The appellant made a remark to another JCO on an occasion that if she would send a JO to the treatment unit he would buy her a pop. The comment was made in an effort to redirect the JO who was refusing to go to class as he had been directed. The appellant was very familiar with the JO and knew that humor would work to redirect him. It did. The JO laughed at the remark and reported to class as directed. The Board did

not find that any disciplinary action was reasonable given the evidence presented and reversed the agency decision.

15. **Name Removed**, 10-day suspension *withdrawn*
Highway Patrol
Master Trooper. The appellant was suspended for causing an avoidable collision while responding to an accident scene. The appellant withdrew his request for a hearing prior to the scheduled hearing date.
16. **Name Removed**, 12-day suspension *affirmed*
Highway Patrol
Trooper. The appellant was responding to a motor vehicle accident at a rate of speed in excess of 130 mph. As he approached the accident scene, the weather conditions began deteriorating and ice began forming in the median. He then slowed to over 100 mph. Traffic in front of him began moving more slowly and the appellant tried to pass a vehicle on the shoulder of the interstate. When he did so he started to slide on an icy patch and lost control of his patrol vehicle. His patrol vehicle slid across the grassy median and collided with an SUV traveling in the opposite direction. Both the patrol vehicle and the SUV were totaled and the four passengers in the SUV required medical treatment. In addition, the appellant had turned off his in car camera in violation of KHP policy. Having the video recording would have provided the KHP with important information about the conditions and the collision. After hearing all of the evidence the Board affirmed the decision of the appointing authority.
17. **Name Removed**, dismissal *affirmed*
Department of Social and Rehabilitation Services
Social Worker. The appellant was convicted of battery of his stepson at a bench trial. As a result of the conviction for a prohibited crime, the appellant's security clearance was revoked and he was dismissed. After hearing all of the evidence the Board affirmed the decision of the appointing authority.

B. Cases Filed Between October 15, 2004 and January 15, 2005:

1. University of Kansas, filed October 15, 2004
2. Osawatomie State Hospital, filed October 15, 2004
3. Department of Revenue, filed October 15, 2004
4. Highway Patrol, filed October 25, 2004
5. Kansas Neurological Institute, filed October 28, 2004
6. Kansas University, filed November 1, 2004
7. Department of Labor, filed November 8, 2004
8. Kansas Neurological Institute, filed November 10, 2004
9. Kansas State University, filed November 12, 2004
10. Department of Social and Rehabilitation Services, filed November 16, 2004
11. Hutchinson Correctional Facility, filed November 17, 2004
12. Department of Social and Rehabilitation Services, filed November 24, 2004
13. Emporia State University, filed November 29, 2004
14. Department of Social and Rehabilitation Services, filed December 3, 2004
15. Department of Social and Rehabilitation Services, filed December 3, 2004
16. El Dorado Correctional Facility, filed December 9, 2004

17. Wichita State University, filed December 13, 2004
18. El Dorado Correctional Facility, filed December 13, 2004
19. Department of Labor, filed December 14, 2004
20. Department of Social and Rehabilitation Services, filed December 14, 2004
21. Topeka Correctional Facility, filed December 15, 2004
22. Department of Social and Rehabilitation Services, filed December 16, 2004
23. The University of Kansas, filed December 16, 2004
24. Department of Social and Rehabilitation Services, filed December 17, 2004
25. Department of Social and Rehabilitation Services, filed December 20, 2004
26. Department of Social and Rehabilitation Services, filed December 27, 2004
27. Department of Social and Rehabilitation Services, filed December 27, 2004
28. Department of Social and Rehabilitation Services, filed December 27, 2004
29. Citizens' Utility Ratepayer Board, filed December 27, 2004
30. Department of Social and Rehabilitation Services, filed December 27, 2004
31. Topeka Correctional Facility, filed December 30, 2004
32. Parsons State Hospital, filed December 30, 2004
33. Kansas Neurological Institute, filed January 3, 2005
34. Larned State Hospital, filed January 11, 2005
35. Parsons State Hospital, filed January 12, 2005

C. Cases Still To Be Heard:

1. 3-day suspension, Department of Social and Rehabilitation Services, set 2/7/05
2. dismissal, The University of Kansas, set 3/24/05
3. 2-day suspension, Department of Social and Rehabilitation Services, set 4/21/05
4. demotion, Department of Social and Rehabilitation Services, set 3/7/05
5. dismissal, Kansas Neurological Institute, set 2/9/05
6. demotion, Department of Social and Rehabilitation Services, set 2/10/05
7. dismissal, Topeka Correctional Facility, set 1/18/05
8. 20-days suspension, Department of Labor, set 2/22/05
9. dismissal, Osawatomie State Hospital, set 3/8/05
10. dismissal, El Dorado Correctional Facility, set 3/22/05
11. demotion, Department of Social and Rehabilitation Services, set 3/7/05
12. 30-day suspension, Wichita State University, set 3/23/05
13. dismissal, El Dorado Correctional Facility, set 4/7/05
14. demotion, Department of Social and Rehabilitation Services, set 3/7/05
15. dismissal, Larned State Hospital, set 2/23/05
16. dismissal, Parsons State Hospital, set 2/25/05
17. 30-day suspension, Department of Revenue, set 1/20/05
18. demotion, Department of Social and Rehabilitation Services, set 3/7/05
19. dismissal, Kansas State University, set 2/10/05
20. 3-day suspension, Department of Social and Rehabilitation Services, set 4/6/05
21. dismissal, Kansas University, set 2/9/05
22. 3-day suspension, Topeka Correctional Facility, set 2/7/05
23. dismissal, Kansas Neurological Institute, set 2/21/05
24. 5-day suspension, Parsons State Hospital, set 3/9/05
25. demotion, Department of Social and Rehabilitation Services, set 3/7/05
26. demotion, Department of Social and Rehabilitation Services, set 2/10/05
27. demotion, Department of Social and Rehabilitation Services, set 2/10/05
28. layoff, Department of Labor, set 3/7/05

29. failure to interview, Department of Social and Rehabilitation Services, set 3/7/05
30. dismissal, Parsons State Hospital, set 2/8/05
31. dismissal, Hutchinson Correctional Facility, set 3/10/05

D. Statistics for Completed Cases:

1. Dismissals: 10
2. Demotions: 0
3. Suspensions: 7
4. Other: 0

1. Affirmed: 7
2. Reversed: 1
3. Modified: 2
4. Dismissed: 1
5. Withdrawn: 6

1. Social and Rehabilitation Services: 3
2. Kansas Highway Patrol: 3
3. Juvenile Justice Authority: 3
4. University of Kansas: 2
5. Citizens Utility Ratepayer Brd: 1
6. Department of Corrections: 1
7. Health and Environment: 1
8. Revenue: 1
9. Kansas State University: 1
10. Emporia State University: 1